

### REMARKS

Claims 1 and 41 have been amended.

The assignee's attorney thanks the Examiner for her time and courtesy in the interview of April 12, 2007, which has advanced prosecution of this application.

In the Office Action, the Form PTO-1449 submitted on November 10, 2006 was signed, but the references were not initialed. An initialed Form PTO-1449 is respectfully requested.

To the extent that it is not necessary to address the rejection of dependent claims by the Office Action in order to provide a complete response, the choice not to discuss such rejections is not, and cannot be interpreted as, acquiescence to such rejections, nor does it limit or can it be construed during prosecution of this patent application or in any later administrative or judicial action to limit the scope of any claims that may eventually issue in this patent application or any patent application claiming priority to this one.

### 35 U.S.C. §103

MPEP 706.02(j) states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 1438 (Fed. Cir. 1991) (emphasis added).

### Claims 1-30

Amended claim 1 claims "[a] system for preparing a graft vessel for anastomosis to a target vessel, where the anastomosis has an anastomosis length, the system comprising: an anastomosis tool configured to connect the graft vessel and the target vessel upon actuation; and a transfer clamp

including two arms movable relative to one another to grasp the graft vessel, said transfer clamp configured to be attached to said anastomosis tool to place the graft vessel on said anastomosis tool and to be detached from said anastomosis tool during said actuation, wherein at least one said arm comprises at least one element having an edge, wherein the length of said edge is related to the anastomosis length." Claim 1 has been amended to clarify that the claimed transfer clamp is "detached from said anastomosis tool during...actuation." (emphasis added).

In contrast, neither U.S. Patent No. 6,187,019 to Stefanchik et. al. ("Stefanchik '019") nor U.S. Patent No. 6,036,700 to Stefanchik et. al. ("Stefanchik '700") teach or suggest all of the limitations of amended claim 1. Even if the clip 80 of Stefanchik '019 is considered to be analogous to the claimed transfer clamp, which is not admitted, the clip 80 is connected to the anastomosis tool during actuation of that tool. The clip 80 snaps onto the cassette 60 of the anastomosis tool before its actuation. (Stefanchik '019, col. 6, lines 44-49; Figures 8-9). Stefanchik '019 performs anastomosis by suturing tissue junctions with the use of spiral needles. (Stefanchik '019; e.g., col. 9, lines 12-14; Figures 15-16, 18-19, 21). The "tissue junctions must be held together firmly along their entire length as the spiral needles advance. This is accomplished by maintaining the close, parallel alignment of the first and second prongs, 82 and 84, of the tissue clip 80." (Stefanchik '019; col. 9, lines 14-19) (emphasis added). Thus, the clip 80 is required to be attached to the cassette 60 of the anastomosis tool during its actuation in order for it to operate, as illustrated most clearly by Figure 19 of Stefanchik '019. This requirement is directly opposite to the requirement of claim 1 of an "anastomosis tool configured to connect the graft vessel and the target vessel upon actuation...and a transfer clamp...configured...to be detached from said anastomosis tool during said actuation." (emphasis added). Further, by requiring the attachment of the clip 80 to the cassette 60 during actuation, Stefanchik '019 teaches away from a "transfer clamp configured...to be detached from said anastomosis tool before said actuation." (emphasis added).

Stefanchik '700 does not teach or suggest a transfer clamp; instead, it simply describes a tool for facilitating suturing. Nowhere does Stefanchik '700 teach or suggest an "anastomosis tool configured to connect the graft vessel and the target vessel upon actuation...and a transfer clamp," much less a transfer clamp "configured...to be detached from said anastomosis tool," much less during actuation of that anastomosis tool.

Thus, neither Stefanchik '019 nor Stefanchik '700, alone or together, teaches or suggests all of the limitations of amended claim 1, and claim 1 is believed to be in condition for allowance. Claims 2-30 depend from claim 1, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

#### Claims 41-48

Amended claim 41 claims "[a] system for performing anastomosis between a graft vessel and a target vessel, where the anastomosis has an anastomosis length, the system comprising: a tissue effector comprising an anvil, and a staple holder movable relative to said anvil; and a transfer clamp connectable to said tissue effector, said transfer clamp including two arms movable relative to one another, wherein each said arm includes a substantially planar surface with an edge, wherein the length of each said edge is related to the anastomosis length, and wherein said surfaces are substantially opposed to one another."

Even if the clip 80 of Stefanchik '019 is considered to be analogous to the claimed transfer clamp, which is not admitted, the clip 80 has two needlelike, tubular prongs 82, 84, as illustrated most clearly in Figures 3-6 and 17. (Stefanchik '019; e.g., col. 5, lines 46-65; Figures 3-6, 17). Claim 41 requires that "each...arm includes a substantially planar surface with an edge." However, neither of the tubular prongs 82, 84 of Stefanchik '019 "includes a substantially planar surface."

Turning to U.S. Pat. No. 6,066,144 to Wolf et. al. ("Wolf"), Wolf merely discloses a staple holder and an anvil, and does not teach or suggest the claimed transfer clamp, which is a separate

structure claimed separately from the staple holder and anvil. Further, the Office Action does not contend that Wolf teaches or suggests the claimed transfer clamp.

Thus, neither Stefanchik '019 nor Wolf teaches or suggests all of the limitations of amended claim 41, and claim 41 is believed to be in condition for allowance. Claims 42-48 depend from claim 41, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

#### Claims 49-53

The rejection of claim 49 is respectfully traversed.

As set forth above with regard to claim 1, Stefanchik '019 does not teach or suggest the claimed "mechanism configured to register the graft vessel relative to said tissue effector...and configured to be independent of said tissue effector during actuation thereof." Further, as set forth above with regard to claim 41, Wolf does not teach or suggest a transfer clamp. Thus, neither Stefanchik '019 nor Wolf teaches or suggests all of the limitations of amended claim 49, and claim 49 is believed to be in condition for allowance. Claims 50-53 depend from claim 49, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

#### REQUEST FOR ALLOWANCE

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,

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**eFiled Application Information**

EFS ID	1695312
Application Number	10607524
Confirmation Number	4831
Title	System for preparing a vessel for anastomosis
First Named Inventor	Tenny Chang
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**Application Details**

Submitted Files	Page Count	Document Description	File Size	Warnings
168_Transmittal_ROA.pdf	1	Miscellaneous Incoming Letter	113188 bytes	PASS
168_Response_to_Office_Action.pdf	11		119875 bytes	PASS
		<b>Document Description</b>	<b>Page Start</b>	<b>Page End</b>
		Amendment - After Non-Final Rejection	1	1
		Claims	2	7
		Applicant Arguments/Remarks Made in an Amendment	8	11
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